THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No:16664 of 2007

DATED:06-08-2007

BETWEEN:

S.V.Narayana.

..... PETITIONER

AND

S.V.Raghavendra Rao & 3 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus directing the respondents 1 to 3 to register First Information Report and arrest 4th respondent, and his followers in view of the complaint made by the petitioner's family, dated 28-06-2007, and requisition, dated 05-07-2007, and consequently declare the inaction of the 1st respondent in registering the First Information Report against the 4th respondent and his followers as violative of Sections 154, 155 and 156 of the Code of Civil Procedure.

3. It is the case of the petitioner that he is the owner of the land situated at Peddakodepaka, Shyampet mandal, Warangal District and there is a dispute between the petitioner and his relatives including 4th respondent since 1987 and civil suits are pending. While so, 4th respondent with the help of the 1st respondent-Sub Inspector of Police, Shyampet police station tried to occupy the land and cultivate the same *in spite* of the subsistence of the injunction order. It is further stated that at present 4th respondent alone has been cultivating the land with the help of the 1st

respondent, and the family members of the petitioner are not allowing to cultivate the said land from July, 2007 onwards. Therefore, 4th respondent assaulted the petitioner with deadly weapons as a result of which petitioner received an injury and was sent to the Government Civil hospital, Parkal for necessary treatment by the Station House Officer vide requisition, dated 05-07-2007. It is the case of the petitioner that the action of the respondents 1 to 3 in not registering a case against the 4th respondent is illegal, and contrary to the statutory requirement of Sections 154, 155, 156 of the Code of Civil Procedure.

4. No doubt, it is the statutory duty of the Station House Officer to register a case whenever a written intimation has been received with regard to the commission of cognizable offence. Even without any complaint also it is open for the police to register a case, but however, there is a remedy available for the petitioner by way of making written intimation before the police and if the concerned Station House Officer does not register the case he has to intimate the same to the Superintendent of police and if the Superintendent of Police also does not take any action the only course open to him is to file a private complaint under Section 190 r/w 200 Cr.P.C. as held by the Apex Court in ***GANGADHAR JANARDHAN MHATRE v. STATE OF MAHARASHTRA*** [1]***; MINUIKUMAR v. STATE OF BIHAR*** [2]***; AND HARI SINGH v. STATE OF U.P.*** [3] Even in a recent judgment of the Apex Court in ***PRAKASH SINGH BADAL AND ANOTHER v. STATE OF PUNJAB AND***

OTHERS[4] the Apex Court at paragraph No.73 clarified that the obligation to register a case is not to be confused with the remedy if the same is not registered. Therefore, if the case is not registered the remedy available to the petitioner is to approach the concerned criminal Court by filing a private complaint.

5. Accordingly, Writ Petition is dismissed. No order as to costs.

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V.ESWARAIAH,J

06th August, 2007.
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[1] (2004) 7 S.C.C. 768
[2] 2006 (4) S.C.C. 359
[3] 2006(5) S.C.C. 733
[4] 2007(1) S.C.C. 1